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7 Attorney for Plaintiff Fuss

8 IN THE UNITED STATES DISTRICT COURT
9 FOR THE DISTRICT OF OREGON

10 ASKLEPIOS HEALTH LLC, a Washington
11 limited liability company; MERIDIAN PARK
12 RADIATION ONCOLOGY CENTER, INC.,
13 an Oregon corporation; and IVAN PAVLOV,
14 an individual,

15 Plaintiffs,

16 v.

17 RADIATION ONCOLOGY SPECIALISTS,
18 PC, an Oregon professional corporation;
19 NORMAN WILLIS MD, an individual;
20 ROBERT MILLER, an individual; TANA
21 MILLER, an individual; and MARTIN FUSS
22 MD, an individual.

23 Defendants.

Case No. 3:18-CV-1177-PK

**DEFENDANT FUSS'
MOTION TO DISMISS**

24 **LR 7-1 Certification**

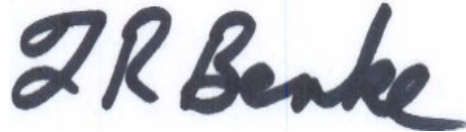
25 Pursuant to LR 7-1(a), counsel for the parties have conferred regarding all the subjects of
26 this motion but the parties could not resolve the dispute.

27 **MOTION**

Defendant Martin Fuss M.D. moves for an order dismissing plaintiffs' claims (Counts I and II of plaintiffs' Third Amended Complaint) under Fed. R. Civ. P. 12(b)(1) for lack of subject matter jurisdiction and failure to state a claim. This motion is supported by defendant Fuss'

1 Memorandum of Law in Support of Motion to Dismiss and Thomas Benke's Declaration in
2 Support of Motion to Dismiss.

3 Dated: September 5, 2018

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7 THOMAS R. BENKE, OSB 922251

8 503-246-1514, Attorney for Defendant Fuss
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CERTIFICATE OF SERVICE

I hereby certify that on the date shown below, I served a true and correct copy of the foregoing Defendant Fuss' MOTION TO DISMISS to:

Bruce F. Howell
Schwabe Williamson and Wyatt, P.C.
1211 SW 5th Ave, Suite 1900
Portland, OR 97204

Anne Foster
Dunn Carney LLP
851 SW 6th Ave Ste 1500
Portland, OR 97204



s/ Thomas R. Benke

- ✓ by first class mail, postage prepaid
- ✓ by electronic transmission
- ✓ by the federal judiciary's CM/ECF filing system

THOMAS R. BENKE
OSB 922251
503-246-1514
Attorney for Defendant Fuss

DATED: September 5, 2018